

POLICY ISSUE
(Notation Vote)

December 29, 2014

SECY-14-0146

FOR: The Commissioners

FROM: Mark A. Satorius
 Executive Director for Operations

SUBJECT: TRIBAL POLICY IMPLEMENTATION PLAN

PURPOSE:

The staff requests Commission approval of the Tribal Policy Statement Implementation Plan that includes activities and resources through fiscal year (FY) 16.

BACKGROUND:

Staff Requirements Memorandum (SRM)-SECY-14-0006, "Tribal Consultation Policy Statement and Protocol," directed the staff to submit an Implementation Plan for the Commission's review and approval. The Commission specified that the revised Implementation Plan include improvements, consistent with the intent in prior Commission direction, SRM-COMWDM-12-0001, "Tribal Consultation Policy Statement, and Protocol," to:

1. Advance communication between the U.S. Nuclear Regulatory Commission (NRC) and Tribal governments;
2. Allow focused, consistent and enhanced consultation activities with the tribes; and
3. Reflect resources needed to implement the Tribal Policy Statement through FY16.

CONTACT: Stuart Easson, NMSS/MSTR
(301) 415-5134

In SRM-SECY-14-0006, the Commission directed the staff to consider a set of ongoing and planned activities as it develops the Implementation Plan. These activities include:

1. Development of an annual report to capture lessons learned;
2. Training of all necessary NRC staff and Tribal liaisons on Tribal protocol;
3. Approaches to assure consistency in communication with Tribal governments through appropriate use of staff (potential models include the Regional State Liaison Officers);
4. Development and maintenance of a Web portal (public page) to capture upcoming Tribal meetings and planned schedules;
5. Development and support for 2-day training sessions on basic radiation to be offered at community colleges on reservations for Tribes. This effort should be conducted in coordination with the Office of Small Business and Civil Rights to identify the appropriate means of selecting host Tribes and funding this initiative; and
6. Development of methods to conduct cultural surveys in a more efficient manner (based on the outcome of the project launched by the Commission in the FY15 budget) and methods to enhance improvements by Tribal representatives in cultural surveys performed by license applicants.

DISCUSSION:

The Commission approved a draft Tribal Policy Statement and staff guidance (i.e., Tribal Protocol Manual). The draft Tribal Policy Statement and Tribal Protocol Manual were published in the *Federal Register* on December 1, 2014. The draft Policy Statement includes six principles that are to guide the NRC's interaction with Indian Tribes. These six guiding principles are:

1. The NRC recognizes the Federal trust relationship and will uphold its trust relationship with Indian Tribes.
2. The NRC recognizes and is committed to a government-to-government relationship with Indian Tribes.
3. The NRC will conduct outreach to Indian Tribes.
4. The NRC will engage in timely consultation.
5. The NRC will coordinate with other Federal agencies.
6. The NRC will encourage participation by State-recognized Tribes.

The staff has now developed a Tribal Policy Statement Implementation Plan (Enclosure) that considers the six aforementioned policy principles. The Implementation Plan identifies activities staff will conduct to implement the direction received in SRM-SECY-14-0006 to ensure that the NRC's actions will conform to the six guiding principles. Each of the activities in the plan implements the NRC's efforts in two or more of the principles. Also, the activities mentioned in SRM-SECY-14-0006 are incorporated into the Implementation Plan.

COMMITMENTS:

As the staff prepares a draft final Tribal Policy Statement for Commission consideration, it will undertake the following:

1. Evaluate the existing staff guidance (i.e., Tribal Protocol Manual) to identify changes that are necessary to align with the final Tribal Policy Statement and determine if additional agency-level guidance and/or procedures will be required as described in SECY-14-0006, "Tribal Consultation Policy Statement and Protocol,"
2. Implement the activities in the approved Implementation Plan,
3. Engage industry associations, Tribal governments, State governments, and other stakeholders to consider developing guidance similar to NEI 10-07, *Industry Guidelines for Effective Pre-application Interactions with Agencies Other than NRC During the Early Site Permit Process*, and
4. Work with interested Indian Tribes to develop formal agreements in anticipation of future NRC licensing activities with the objective of facilitating subsequent consultations and encouraging early Tribal participation in conducting cultural surveys to make the National Historic Preservation Act (NHPA) Section 106 process more efficient.

RECOMMENDATION:

The staff recommends that the Commission approve the draft Tribal Policy Statement Implementation Plan.

RESOURCES:

The Nuclear Materials Users business line has budgeted FY15 resources to fund activities identified in the Implementation Plan. Federal, State, and Tribal Liaison Branch staff in the Office of Nuclear Material Safety and Safeguards will continue to lead liaison efforts related to the draft Tribal Policy Statement development and implementation, with support from other Offices and Regions.

Staff anticipates that successful implementation and outcomes from FY15 activities will result in opportunities in the following areas: (1) Development and maintenance of internal/external training; (2) Development and maintenance of infrastructure; (3) Expanded outreach; and (4) Enhanced coordination with other Federal agencies.

FY16 resources will be addressed through the Planning, Budgeting, and Performance Management process. Estimated resources (travel and FTE) for FY16 are included in the Tribal Policy Implementation Plan.

Over the next few years, implementation activities that support the NRC Tribal Policy Statement will be evolving and staff will adjust plans to satisfy changing demands and continuous improvements.

The Commissioners

- 4 -

COORDINATION:

The Office of the General Counsel (OGC) has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objection.

The enclosure to this paper is marked sensitive because it contains budget estimates which have not been made publically available.

/RA Darren B. Ash for/

Mark A. Satorius
Executive Director
for Operations

Enclosure:

1. NRC Tribal Policy Statement
Implementation Plan

COORDINATION:

The Office of the General Counsel (OGC) has reviewed this paper and has no legal objection. The Office of the Chief Financial Officer has reviewed this paper for resource implications and has no objection.

The enclosure to this paper is marked sensitive because it contains budget estimates which have not been made publically available.

/RA Darren B. Ash for/

Mark A. Satorius
Executive Director
for Operations

Enclosure:

1. NRC Tribal Policy Statement Implementation Plan

ADAMS Accession No.: ML14288A381

SRM-S14-0006-5

OFC	MSTR/FSTB	MSTR/FSTB	NMSS/MSTR	RGN-III	NSIR
NAME	SEasson	PMichalak	LDudes	DRoberts for CPederson	JWiggins
DATE	11/05/14	11/05/14	11/05/14	11/08/14	11/17/14
OFC	OIS	NRO	NRR	OCHCO	OCFO
NAME	JFlanagan	GTracy	WDean	MCohen	TGrancorvitz for MWylie
DATE	11/14/14	11/14/14	11/12/14	11/06/14	11/19/14
OFC	OGC	NMSS/MSTR	Tech Ed	NMSS	EDO
NAME	BJones	PHenderson for LDudes	PTressler	CHaney	MSatorius <i>/RA by DASH for/</i>
DATE	11/23/14	11/26/14	12/9/14	12/19/14	12/29/14

OFFICIAL RECORD COPY